

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 24, 2006 PLANNING COMMISSION MEETING

**PROJECT #:** Annexation #06008

**PROPOSAL:** A request from the owners to annex Lot 1, Block 1, Amber Hill Estates.

**LOCATION:** Northeast of the intersection of South 80<sup>th</sup> Street and Amber Hill Road.

**LAND AREA:** Approximately three acres.

**CONCLUSION:** The subject property is included in the newly created road improvement district that covers Clarendon Hills, Portsche Heights and Amber Hill Estates. The district was formed for the purpose of paving the gravel roads with asphalt to County standards. Annexation of only a portion of the land included in a road improvement district has apparently not been done by the City of Lincoln before, and the implications of such an annexation are not fully known. Staff is attempting to determine the impact upon both the property owner and the City, and has informed the owner of this fact. Until the outstanding questions can be answered, it is not possible to find that the request complies with the City's annexation policy and annexation is premature.

<b>RECOMMENDATION:</b>	Deferral
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 1, Block 1, Amber Hill Estates.

**EXISTING ZONING:** AGR Agricultural Residential

### **SURROUNDING LAND USE AND ZONING:**

North:	Vacant (the Grand Terrace CUP was approved on 3/15/06)	AG (R-3 pending)
South:	Single-family Residential	AGR
East:	Single-family Residential	AGR
West:	Single-family Residential	AGR

**EXISTING LAND USE:** Single-family Residential

## COMPREHENSIVE PLAN SPECIFICATIONS:

Page F23 - The Land Use Map designates low-density residential uses for this property.

Page F154 - The City's annexation policy, also stated in paragraph #1 below.

## HISTORY:

- March 15, 2006** SP#06001 for the Grand Terrace CUP was approved for the land immediately adjacent to the north of this site. The associated annexation and change of zone to R-3 are in the process of moving forward for consideration by the City Council.
- April 13, 1987** The final plat of Amber Hill Estates was approved by the City Council.
- August 15, 1986** The preliminary plat of Amber Hill Estates was approved by the City Council.

## UTILITIES & SERVICES:

- A. **Sanitary Sewer:** Sanitary sewer is planned to be extended from the south side of Highway 2 south to serve the proposed Grand Terrace residential development adjacent to this property to the north. Based upon existing topography, it appears the Heck residence at the northwest corner of Lot 1 can be served by that sanitary sewer. However, it also appears that the approximately south two-thirds of the lot cannot be served by it. That part of the lot must be served by a future sanitary sewer serving the drainage basin to the south.
- B. **Water:** Water could be extended from the proposed water service planned in Grand Terrace.
- C. **Roads:** South 80<sup>th</sup> Street and Amber Hill Road adjacent to the subject property are surfaced with gravel. The purpose of the newly-formed road improvement district was to pave the streets in this area, including South 80<sup>th</sup> Street and Amber Hill Road, with asphalt to County rural standards. Any areas within the City must pave streets with concrete including curb and gutter and sidewalks when land is subdivided.
- D. **Fire/Police Protection:** After annexation, police and fire protection become the responsibility of the City of Lincoln. The nearest fire stations are at South 48<sup>th</sup> & Claire Avenue and at South 84<sup>th</sup> and South Streets.

## **ANALYSIS:**

1. Annexation policy:

- ! Land which is remote from the limits of the City of Lincoln will not be annexed; land which is contiguous and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.
- ! Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (i.e., water, sanitary sewer) and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.
- ! Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city and the county."

2. During the review of the Grand Terrace CUP, staff noted that the development must be served by paved roads. Right-in-right-out access to South 84<sup>th</sup> Street was approved as part of the development, as well as a phasing plan that identified which surrounding gravel roads would be improved in conjunction with those phases.
3. It was also noted during the review that any areas annexed by the City are required to pave streets with concrete including curbs, gutter, and sidewalks at the time of final plat. However, if streets are paved with asphalt to County standards prior to annexation, the City is required to accept them "as-is".
4. The Clarendon Hills, Portsche Heights, and Amber Hill Estates neighborhoods voted to petition the County Board to create a road improvement district for the purpose of paving the roads in those developments with asphalt to County standards. The creation of the district was approved by the Board in 2005, and the District has elected a Board of Trustees which is in the process of negotiating a contract to improve the roads. After the roads are paved, the Trustees will convene to assess the affected properties for the purpose of paying off the costs of improvements. Those costs include both construction (paving, grading, etc.) and soft (engineering and attorney fees, etc).

5. State Statutes treat road improvement districts similar to sanitary improvement districts (SID) in that once legally formed, both have the ability to contract for services and assess members for the costs of those services.
6. It is the opinion of staff that if the District assesses members prior to annexation, the City can be liable for those costs. It appears clear that, as with an SID, the City assumes both the assets and the liability for all debts when the entire district is annexed. However, in the case of this request which proposes annexation of a portion of the district, the answer is not clear. It is possible that even after annexation, the District will have the authority to construct improvements in areas within the district boundaries prior to annexation and assess for the improvements. It is not known whether the City or the land owner would be responsible for those costs. This is a circumstance the City has not faced before, and the implications are not fully known.
7. These questions are being considered by City and County attorneys and have not yet been answered. The applicant was notified of this, and was encouraged to delay the public hearing to allow time for outstanding issues to be resolved. As of the writing of this report the applicant has not responded.
8. The City does not intend to become liable for asphalt paving costs, and staff will recommend that an annexation agreement be required that includes a condition that the owners will be responsible for those costs. The applicants need to be aware that they may be liable for both asphalt paving, and then concrete with curb, gutter and sidewalks at the time of final plat should they ever subdivide their land.
9. The annexation policy infers that all municipal services can be provided to lands being annexed. A significant portion of the Heck property cannot be served by the sanitary sewer being extended to the Grand Terrace development, and an annexation agreement will be required that states that service cannot be provided until additional improvements to the sewer system have been constructed to serve this area.
10. There are unresolved issues, and as a result it is not possible for staff to find that this request complies with the annexation policy. While the recommendation is for deferral, if the City Council approves this request it should be subject to the following condition.

#### **CONDITIONS OF APPROVAL**

1. The owners enter into an annexation agreement with the City.

AN#06008  
Heck Property

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Prepared by:

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Planner  
May 11, 2006

**APPLICANT/  
OWNER/  
CONTACT:**

James and Jennifer Heck  
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Lincoln, NE 68516  
402.730.0466

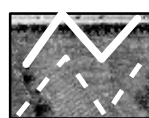
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# **Annexation #06008** **8000 S 80th Street** **Zoning:**

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
 Sec. 22 T9N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction

2005 aerial

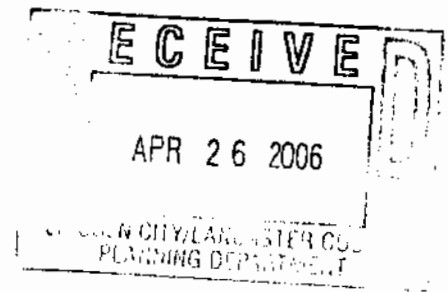
Pine Lake Rd



Yankee Hill Rd

April 25, 2006

James Heck  
8000 South 80<sup>th</sup> Street  
Lincoln, NE 68516



Marvin Krout  
Director of Planning  
Lincoln/Lancaster County Planning Department  
555 South 10th Street  
Lincoln, NE 68508

Mr. Krout,

We, James and Jennifer Heck live at 8000 South 80<sup>th</sup> Street our legal description is Amber Hill Estates Block 1 Lot 1. We are requesting Annexation of our lot and we would like to see Amber Hill Estates follow our lead. For the following reasons:

1. We agree with the city that an Urban Standard Road system needs to be in place to serve the new Grand Terrace Urban Development at 84<sup>th</sup> and hwy 2 which has doubled the number of units they plan to build from first Plot to the current Plot. The first plot shown had 236 units to build; now the developer has the approval to build 485 Units. Because of the newly approved apartments, which no one in our neighborhoods wanted The request for NO apartments has been one of our major density issues from the beginning conversations (March 2004) with the developer. All earlier traffic studies did not include apartments in this development; the traffic has been a major concern for the adjoining neighborhoods before apartments became a part of the mix.
2. For the first three phases of the Grand Terrace Development which will cover about Three Hundred Units (and about three plus years) they will only have a right-in right-out on 84<sup>th</sup> Street and access through Amber Hill Estates on Amber Hill Road and 80<sup>th</sup> Street that the Paving District plan to put in 8 inch asphalt that will be torn up by the construction traffic and eventually by being annexed and up grading to Urban Standards.
3. The Paving District is made up of three different neighborhoods Amber Hills Estates, Portsche Heights, Clarendon Hills. Amber Hill was forced into the paving district and has the biggest impact and out numbered in the decision process. I want to do what's best for our neighborhood and do it once and not have to deal with the roads construction again on my street. So I have no choice to apply for annexation unless the City Council up holds their vote on the Comprehensive Plan Amendment #04011. This supports the requirement of an

Urban-cross section of roads to be connected to the Grand Terrace Development prior to any new development.

4. We knew when we bought this property that it would be annexed some day, and we planned for a Future Urban Development. The time has come and my neighbors all got an idea from a fast talking attorney and low-end builder to get around annexation by creating a Paving District. We agree with the City and want to do the job once the right way with Urban Standard Road System in Amber Hills Estates.

Thank you for your consideration on this request.

*James T. Clark*  
*Jennifer J. Clark*

